

DEC 21 2007

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BERNARDO MEDINA FLORES,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 07-71961

Agency No. A96-057-917

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted December 17, 2007<sup>\*\*</sup>

Before: GOODWIN, REINHARDT and W. FLETCHER, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' ("BIA")  
denial of a motion to reopen.

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

07-71961

Upon review of the record and petitioner's late response to this court's July 31, 2007 order to show cause, we conclude that the BIA did not abuse its discretion in construing petitioner's motion to reconsider as a motion to reopen because petitioner asserted that he was eligible to apply for new status. *See Mohammed v. Gonzales*, 400 F.3d 785, 792 (9th Cir. 2005). Further, the BIA did not err in denying the motion as numerically barred. *See* 8 U.S.C. § 1003.2(c)(2).

Accordingly, this petition for review is summarily denied because the questions raised by the petition are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam).

**PETITION FOR REVIEW DENIED.**